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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/806,742	03/23/2004	Angela L. Chiu	1999-0148A CON	2567
26652	7590	06/14/2005	EXAMINER	
AT&T CORP. P.O. BOX 4110 MIDDLETOWN, NJ 07748			NGUYEN, VAN KIM T	
			ART UNIT	PAPER NUMBER

2151

DATE MAILED: 06/14/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/806,742

Applicant(s)

CHIU ET AL.

Examiner

Van Kim T. Nguyen

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 13 January 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-6 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3 and 5-6 is/are rejected.
- 7) ☒ Claim(s) 4 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

1. This Office Action is responsive to communications filed on January 13, 2005.

***Claim Rejections - 35 USC § 102***

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

3. Claims 1-3 and 5-6 are rejected under 35 U.S.C. 102(e) as being anticipated by Aukia et al (US 6,594,268).

Regarding claims 1 and 6, as shown in Figures 1-11, Aukia discloses a method for use in a network that carries packet traffic under at least two classes of service, best effort and better-than-best effort (QoS and non-QoS (BE) service class; abstract, col. 2: lines 1-36), comprising: determining individually for each of a plurality of links in the network whether a predetermined parameter (QoS provisioning commitments, link capacity and available bandwidth; col. 6: lines 7-18, and lines 59 – col. 7: lines 8) associated with the each link meets or exceeds a predetermined criterion, the parameter being a function of the amount of packet traffic over each link entitled to one of the classes of service and the amount of packet traffic over each of the link that is entitled to the other of the classes of service (col. 10: lines 53-62; and col. 17: line 64 – col. 18: line 27).

Regarding claim 2, Aukia also discloses setting a warning flag (trigger event; QoS advertisement packet) for each of the link for which the criterion is met (a condition requiring a new adaptive routing calculation, based on a predetermined schedule; col. 10: line 63 – col. 11: line 10; and col. 15: lines 34-52).

Regarding claim 3, Aukia also discloses providing dynamic subscriptions by using RSVP for aggregate packet traffic flows along any of the links (col. 3: lines 21-37, esp. lines 31-37).

Regarding claim 5, Aukia also discloses allowing a customer to request and modify the access rate for at least one of the classes of service (e.g., providing differential services to customers according to customers' demands; col. 1: lines 15-27).

### ***Response to Arguments***

4. Applicant's arguments filed January 13, 2005 regarding claims 1-3 and 5-6 have been fully considered but they are not persuasive.

In response to Applicant's argument that "... it is not clear what predetermined criterion the QoS provisioning commitments, link capacity or available bandwidth are compared against to determine if the criterion is met," (page 4: lines 4-9), and "... nothing in Aukia that describes that particular amounts of packet traffic on a link are entitled to different classes of service, as claim 1 recites", (page 4: lines 27-28), Applicant is respectfully invited to review Figures 5-10, where Aukia discloses initial values such as the QoS provisioning commitments are provided to define the network topology and network characteristics for *each* service class for *each* link 1 (e.g., Fig. 10, step 1001-1004; Fig. 8: steps 801-808; col. 21: lines 25-40; col. 24: lines 23-24).

The QoS routing module 406 classifies/determines existing packet flows (i.e., the amount of packets that flows in a given period of time) into real-time (one class of service) or non-real-time (the other class of service); and the packet flows can further be classified into multiplexable (one class of service) or non-multiplexable flows (the other class of service) based on whether

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the packet flows may mixed with other flow traffic on one or more links *or* are desirably assigned a dedicated link and dedicated capacity (col. 16: lines 28-42 and 64-67; col. 17: lines 27-35).

5. Applicant's arguments, see page 4, lines 16-19, filed January 13, 2005, with respect to claim 4 have been fully considered and are persuasive. The rejection of claim 4 has been withdrawn.

***Allowable Subject Matter***

6. Claim 4 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

The following is an examiner's statement of reasons for allowance:

Claims are considered allowable when reading the claims, in light of the specification, none of the references of record alone or in combination disclose or suggest the combination limitations specified in the dependent claim including the parameter is the ration of the amount of packet traffic over the each link that is entitled to the one of the classes of service to the amount of packet traffic over the each link that is entitled to the other of the classes of services and wherein the criterion is that the ratio exceeds a predetermined threshold.

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

***Conclusion***

7. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Van Kim T. Nguyen whose telephone number is 571-272-3073. The examiner can normally be reached on 8:00 AM - 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung, can be reached on 571-272-3939. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Van Kim T. Nguyen  
Examiner  
Art Unit 2151

vkn

  
**ZARNI MAUNG**  
SUPERVISORY PATENT EXAMINER